

HEALTH AND SENIOR SERVICES

DIVISION OF EPIDEMIOLOGY, ENVIRONMENTAL, AND OCCUPATIONAL HEALTH

Communicable Disease Control Service - Vaccine Preventable Disease Program  
Immunization of Pupils in School

Proposed Amendment: N.J.A.C. 8:57-4.6

Proposed New Rule: N.J.A.C. 8:57-4.17

Proposed Recodification with Amendment: N.J.A.C. 8:57-4.17 as 4.18

Authorized By: Public Health Council, Miriam Cohen, Chairperson

Authority: N.J.S.A. 26:1A-7

Calendar Reference: See Summary below for explanation of exception to calendar requirement

Proposal Number: PRN 2003-46

Submit written comments or arguments relevant to the proposal on or before April 4, 2003. These submissions and any inquiries about submissions and responses should be directed to:

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The agency proposal follows:

**Summary**

The New Jersey Department of Health and Senior Services proposes to amend N.J.A.C. 8:57-4.6, add new rule N.J.A.C. 8:57-4.17, and recodify N.J.A.C. 8:57-4.17 as 4.18 with amendments to include varicella vaccine as a required vaccination for children entering licensed child care centers or Kindergarten/Grade 1 in New Jersey. N.J.A.C. 8:57-4 concerns the establishment of a set of uniform immunization requirements applicable to children attending all schools and preschool facilities in New Jersey and is mandated by N.J.S.A. 26:1A-7. The Department's objectives in establishing regulations as a condition for children entering school continue to be as

follows:

- 1) To ensure that all children attending school have been immunized against specific vaccine-preventable diseases;
- 2) To prevent the transmission of vaccine-preventable diseases by maintaining high immunization rates in school-aged and preschool-aged children; and
- 3) To collect data on the immunization status of children attending schools and preschool facilities in order to identify areas of the State where immunization rates are not adequate so that intervention measures can be instituted.

Currently available vaccines have greatly reduced the number of cases of vaccine-preventable diseases as compared to the number reported in the pre-vaccine era. However, measles, mumps, rubella, pertussis, and varicella (chickenpox) cases continue to occur among children and susceptible adolescents and adults, and immune impaired individuals. Most of the proposed amendments to Chapter 14 of the State Sanitary Code (or N.J.A.C. 8:57-4) as originally promulgated in 1975, and last revised in 2000, are technical clarifications or additions to the provisions of the previous rules. The specific vaccines and the number of vaccine doses required have basically remained the same. The only exception is that in September 2000, three doses of hepatitis B vaccine for children entering Kindergarten or Grade 1 and Grade 6 became a mandated vaccine in conformance with the current national immunization recommendations, endorsed by the New Jersey Chapter of the American Academy of Pediatrics (AAP) and the New Jersey Chapter of the American Academy of Family Physicians (AAFP), the stated desire of the New Jersey State Legislature, and the recommendation of the New Jersey Public Health Council. More recently, physicians, the New Jersey AAP, New Jersey AAFP, child health

advocates, and some State legislators by way of a bill (A-3808) introduced in November 2001, have recommended that varicella vaccine for children attending child care centers and entering Kindergarten or Grade 1 become a required vaccination. In May 1999, the Advisory Committee on Immunization Practices (ACIP) strongly recommended that all states implement varicella vaccination requirements for child care and school entry. Although generally mild and self-limiting, varicella can be associated with complications which can include secondary bacterial infection, pneumonia, and central nervous system involvement. Immunocompromised persons and children with HIV infection are at increased risk of complications to varicella. Approximately 50 children die of varicella or varicella complications each year in the United States. As the incidence of chickenpox disease circulation among young children decreases as a result of vaccination efforts, those who remain unvaccinated have a reduced chance of acquiring disease during early childhood when the disease is generally less severe. These children run an increased risk of acquiring the disease during adolescence or adulthood when significant complications are more likely to occur. By vaccinating approximately five age cohorts of young children now, they will be protected from acquiring more severe varicella disease and complications in adulthood. In the United States, varicella vaccine is routinely recommended to be administered to all children anytime from 12 to 18 months of age. A parental or physician history of varicella disease in a child also constitutes acceptable proof of immunity. The New Jersey Department of Health and Senior Services recognizes the positive public health impact of extending a varicella rule to that population; however, for the purposes of ease of implementation, the Department proposes that any new vaccine requirement only become operative on or after September 1, 2003.

Under these proposed amendments and new rules, all children 19 months of age or older attending a child care center shall be required to document one dose of varicella vaccine. All children born on or after January 1, 1998 and entering Kindergarten or Grade 1 (whichever occurs first) for the first time after September

1, 2003, shall be required to document receipt of one dose of varicella vaccine. To ensure equal protection of vaccine to the same age cohort, those children born on or after January 1, 1998, and who are transferring into a New Jersey school from another state or country, shall also document receipt of one dose of varicella vaccine. The varicella vaccine shall have been administered no sooner than on the child's first birthday. Children shall not be required to receive varicella vaccine if the parent furnishes laboratory proof of varicella immunity. Children shall not be required to receive the varicella vaccine if a physician or certified registered nurse practitioner, or parent or legal guardian submits documentation or a written statement attesting to previous varicella disease history.

When operative on September 1, 2003, the proposed varicella rule will affect all children 19 months of age or older entering, transferring or attending, any licensed child care center. The proposed new rule will also affect all children born on or after January 1, 1998 who are entering Kindergarten or Grade 1 (whichever comes first) for the first time in a New Jersey school on or after September 1, 2003. The proposed rule will also apply to children born on or after January 1, 1998, who are transferring into a New Jersey school on or after September 1, 2003 from another state or country.

A physician or other health provider referenced at N.J.A.C. 8:57-4.3(b) can continue to grant a medical exemption for a pupil, provided it is based upon valid medical reasons as cited by the AAP or the ACIP of the United States Public Health Service.

Religious exemptions to immunization for a pupil enrolling in a private or public school or child care center as referenced at N.J.A.C. 8:57-4.4(a) through (f) shall continue to be granted, provided the parent or guardian explains in writing how the immunization conflicts with the exercise of bona fide religious tenets or

practices of the pupil. General philosophical or moral objection to immunization remains insufficient for an exemption on religious grounds. In addition, school and health officials may not challenge the veracity or sincerity of the religious statement submitted by the parent or guardian with the exception of religious schools.

Provisional admission shall continue to be granted, for the other previously mandated vaccines; however, since varicella vaccine receipt in these affected children does not require a series of vaccinations at this time, granting provisional status is not applicable to a pupil in order to comply with the varicella vaccine requirement.

In recognition of current national standards for state immunization information systems related to acceptable documentation as referenced at N.J.A.C. 8:57-4.6(a)4, the official authenticated immunization records as produced from the New Jersey Immunization Information Systems (NJIIS) shall also be considered adequate documentation of a child's immunization history.

All pupils with medical or religious exemptions may be excluded from the school or preschool in the event of a specific vaccine-preventable disease outbreak or threatened outbreak in the school.

These amendments and new rule propose no other changes to the administrative rules or specific provisions of the other currently mandated vaccines such as DTP, polio, Hib, measles, mumps, and rubella (MMR), and hepatitis B virus.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirements, pursuant to N.J.A.C. 1:30-3.3(a)5.

### **Social Impact**

The proposed amendments and new rule will have a positive social impact since the rules apply uniformly to all pupils in New Jersey. Vaccine-preventable diseases remain a threat to school-aged and preschool-aged children. There was a resurgence of measles in New Jersey 1989-1991, however, since implementing the two dose measles requirement in 1995, only 0 to eight cases of measles have occurred annually. With implementation of the varicella requirement, it is anticipated that in future years, the cases of varicella disease, with their potential for serious medical complications and hospitalization, will be dramatically decreased among children. Prevention of such disease cases and outbreaks requires high immunization levels among school-aged and preschool-aged children. A continued high level of protection will prevent these disease cases and outbreaks and their after-effects by curtailing the associated high social costs that affect the individual, the family, and the community. Nationally, approximately 100 varicella-related deaths occur annually and half of these are children. Varicella case incidence is highest among children one through nine years of age.

### **Economic Impact**

The proposed amendments and new rule at N.J.A.C. 8:57-4.1, 4.17 and 4.18 to include varicella vaccine, will not significantly increase the economic cost to the parents or guardians of pupils entering school or preschool settings. Most of the currently required vaccines have been medically recommended by health authorities for over 27 years and most children receive these required doses as part of routine well child health visits by private pediatricians or public health clinics. Most physicians and public clinics have routinely vaccinated all children during infancy with varicella vaccine since 1997. Most physicians support the 1996

recommendation from all national medical advisory bodies that varicella vaccine be administered to all infants and children. It is estimated that 80 to 90 percent of all New Jersey children under age six have already received a dose of varicella vaccine or have a physician or parental history of disease, thereby minimizing additional costs to implement this vaccine requirement at the child care center and/or Kindergarten-Grade 1 level. Approximately 50 percent of states now require proof of varicella vaccine or past disease history prior to entry into school. Despite increasing vaccine costs for disease prevention which are borne by the family, insurers, and public and private health providers alike, the economic costs associated with outbreaks of vaccine-preventable diseases are generally 10 times greater. These may include hospitalization, lost class time for ill pupils, parental loss of work time, and disruption of routine school and health delivery activities.

### **Federal Standards Statement**

The proposed amendments and new rule do not impose standards on schools, preschools, child care centers, or health care providers in New Jersey that exceed those contained in Federal guidelines contained in “The Recommended Childhood Immunization Schedule: United States, 2002” as published by the U.S. Centers for Disease Control and Prevention, National Immunization Program, as set forth by the Advisory Committee on Immunization Practices, U.S. Public Health Service, U.S. Department of Health and Human Services.

### **Jobs Impact**

The Department does not expect that any jobs will be generated or lost as a consequence of proposed amendments and new rule.

### **Agriculture Industry Impact**

The proposed amendments and new rule will not have any impact on the agriculture industry in New Jersey.

### **Regulatory Flexibility Analysis**

The proposed amendments and new rule will have an impact on small businesses as they are defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. since all children entering or attending schools or preschools in New Jersey are subject to compliance with the same immunization rules, regardless of their source of medical care or what program they attend. Small businesses, such as physicians offices, child care centers, preschools and non-public schools are affected by the amendments and new rule, in that they are required to maintain records regarding the immunization status of the children in their care, and incur the costs attendant to doing so. These costs are negligible. Forms are provided by the Department, and a check box for varicella has always appeared although prior to these proposed amendments and new rule, had never been mandated. The provision of new forms is unnecessary. Nor are any professional services needed in order to comply. The rules have been developed for the benefit of all children entering or attending schools or preschool facilities in New Jersey. Since prevention of these specific vaccine-preventable diseases is in the public health interest, no differentiation based on business size has been provided in the rules.

### **Smart Growth Impact**

The proposed amendments and new rule will have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.



**Full text** of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

**8:57-4.6 Documents accepted as evidence of immunization**

(a) The following documents shall be accepted as evidence of a child's immunization history provided that the type of immunization and the date when each immunization was administered is listed:

1. An official school record from any school, preschool, or child care center indicating compliance with the immunization requirements of this subchapter; [or]
2. A record from any public health department indicating compliance with the immunization requirements of this subchapter; [or]
3. A certificate signed by a physician licensed to practice medicine or osteopathy or a certified registered nurse practitioner in any jurisdiction of the United States indicating compliance with the immunization requirements of this subchapter[]; or
4. The official record of immunization from the New Jersey Immunization Information System indicating compliance with the immunization requirements of this subchapter.

(b) (No change)

**8:57-4.17 Varicella virus vaccine**

**(a) Every child born on or after January 1, 1998 shall have received one dose of varicella vaccine, or any vaccine combination containing varicella virus, administered on or after the first birthday, prior to school entrance for the first time into a Kindergarten, Grade 1, or a**

comparable age entry level special education program with an unassigned grade.

(b) Every child 19 months of age or older enrolling in or attending a child care center or preschool facility shall have received at least one dose of a varicella containing vaccine administered on or after the first birthday.

(c) Every child born on or after January 1, 1998, attending or transferring into a New Jersey school from another state or country, shall have received one dose of a varicella virus containing vaccine.

(d) Children who present either documented laboratory evidence, a physician's statement, or a parental statement of previous varicella disease, shall not be required to receive varicella vaccine.

8:57-[4.17]4.18 Providing immunization

(a) A board of education and/or a local board of health may provide, at public expense, the necessary equipment, materials and services for immunizing children with the following immunizing agents, either singly or in combination:

1.-9. (No change in text.)

**10. Varicella vaccine;**

[10] 11. (No change in text.)